

BEAUMONT

TEXAS

**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS NOVEMBER 17, 2015 1:30 P.M.**

CONSENT AGENDA

- * Approval of minutes – November 10, 2015
- * Confirmation of committee appointments
- A) Authorize the City Manager to execute an Industrial District Contract with DCP Southeast Texas Plant, LLC.
- B) Authorize the City Manager to execute Change Order No. 1, accept maintenance and release final payment to Bruce's General Construction, Inc., for the Best Years Center Parking Lot No. 2


BEAUMONT

TEXAS

A

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer 

MEETING DATE: November 17, 2015

REQUESTED ACTION: Council consider authorizing the City Manager to execute an Industrial District Contract with DCP Southeast Texas Plant, LLC.

BACKGROUND

Industrial District Contracts enable the City to collect payments in lieu of taxes from industries located outside the city limits but within the extra territorial jurisdiction of the city.

The City currently has a contract with DCP Southeast Texas Plant, LLC that will expire December 31, 2015. The new contract will be effective January 1, 2016. The in-lieu of tax payment will be based on a ratio of 80% of property taxes due to the City as if the industry were located within the city limits in 2016 through 2018 and 75% of property taxes due to the City in 2019 through 2022. The 2016 payment will be calculated based on 80% of the assessed value multiplied by the tax rate effective on October 1, 2015 or \$0.69 per \$100 of assessed valuation. Payments will be due to the City by February 1st of each year.

A copy of the agreement is attached for your review.

FUNDING SOURCE

The estimated FY 2016 payment is \$42,400.

RECOMMENDATION

Approval of the resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute an Industrial District Agreement with DCP Southeast Texas Plant, LLC, of Houston, Texas. The agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of November, 2015.

- Mayor Becky Ames -

THE STATE OF TEXAS

§

COUNTY OF JEFFERSON

§

AGREEMENT

This Agreement is made under the authority of Section 42.044 of the Texas Local Government Code.

The parties to the Agreement are The City of Beaumont, a municipal corporation and a home-rule city located in Jefferson County, Texas, hereinafter called "CITY," and DCP Southeast Texas Plant, LLC, its parent, subsidiaries and affiliates, hereinafter called "COMPANY."

PREAMBLE

WHEREAS, Company owns land and improvements which are a part of the manufacturing, industrial, and refining facilities of said Company. The City has established an industrial district comprising a certain part of the extra-territorial jurisdiction of the City, such industrial district being known as the City of Beaumont Industrial District.

WHEREAS, the Company recognizes the benefits of this Agreement and an obligation to contribute to the revenue needs of said City in an amount commensurate with the burdens placed upon the City and benefits derived by the Company by reason of being located immediately adjacent to said City.

WHEREAS, the Company and the City desire to base the industrial district payment on assessed value to ensure equity among the companies.

In view of the above and foregoing reasons, and in consideration of the mutual agreements herein contained, Company and City hereby agree as follows:

ARTICLE I

COMPANY'S OBLIGATION

Annual Payment on Company's Property

1. Commencing with the calendar year 2016 and each calendar year thereafter for the duration of this Contract, the Company will pay the City a certain sum which will be computed on the assessed value of the Company's facilities and property, real, personal, and mixed located on Company's land covered by this contract. (Herein "the properties")

2. By the term "Assessed Value" is meant the 100% valuation of the Company's properties, as determined by the Jefferson County Appraisal District for the previous tax year.

3. The term "assumed City taxes due" shall be calculated by the following formula:

Assumed City Taxes Due:

$$\text{Assessed Value} / 100 \times \text{Current City Tax Rate} = \text{Assumed City Tax Due}$$

4. Payment Procedures

The procedures for determining and making such payments shall be as follows:

(a) The payment for 2016 shall be due and payable on or before February 1, 2016 and calculated as follows:

Assumed City Taxes Due:

$$\text{Assessed Value} / 100 \times \text{Current City Tax Rate} = \text{Assumed City Tax Due}$$
$$\text{Year 1 } 80\% \text{ of Assumed City Taxes Due} = \text{2016 Payment}$$

Each October thereafter, the Chief Financial Officer shall obtain the most recent assessed values as set by the Jefferson County Appraisal District for the Company's properties, real, personal and mixed, having taxable situs within the areas described in this agreement; for example, in October, 2015, the 2015 assessed values shall be used for the February 1, 2016 payment.

If the assessed values for the period required are in question and/or under litigation with the Jefferson County Appraisal District, payment shall be computed on the most recent certified values from the Jefferson County Appraisal District. The Company shall notify the City following resolution of the appraised value question and an adjustment for the payment, without interest, will be made within thirty (30) days following such resolution.

(b) After the assessed value of the Company's properties has been determined, the payments due hereunder shall be calculated in accordance with the following schedule:

The 2016 – 2018 payments shall be 80% of assumed City taxes due.

The 2019 - 2022 payments shall be 75% of assumed City taxes.

(c) City hereby agrees to bill Company for its payments due hereunder on or before January 1 each year. Company shall pay to City the amount billed on or before February 1 each year. Upon receiving the final payment, the Chief Financial Officer shall issue an official receipt

of said City acknowledging full, timely, final and complete payment due by said Company to City for the property involved in this Agreement for the year in which such payment is made. If payment is not made on or before any due date, the same penalties, interest, attorneys' fees and costs of collection shall be recoverable by the City as would be collectible in the case of delinquent ad valorem taxes. Further, if payment is not timely made, all payments which otherwise would have been paid to the City had Company been in the City limits of City will be recaptured and paid to the City within 60 days of any such event.

ARTICLE II

PROPERTY COVERED BY AGREEMENT

This instrument will reflect the intention of the parties hereto that this instrument shall govern and affect the properties of Company (facilities, real, personal, and mixed) located on Company's real property as shown on the records of the Jefferson County Appraisal District which are within the extra-territorial jurisdiction of the City of Beaumont.

ARTICLE III

SALE BY COMPANY

1. Company shall notify City of any sale of any or all of Company's facilities to any person or entity. It is the intent of the parties that no sale of any of Company's facilities will affect the amount to be paid to City as provided under this Agreement. Accordingly, and as to payments due under this Agreement, no such sale shall reduce the amount due City under this Agreement until the purchaser of such facility has entered into a contract in lieu of taxes with City that provides for a continuation of like payments to City.

2. Company shall have the right to assign, transfer or convey all, or any part of, its rights,

title and interest in the Agreement in connection with any transfer or conveyance of title to all or any part of the properties subject to this Agreement to any person or entity at any time of this Agreement; provided, however, that Company shall provide City with written notice of such assignment. Company shall be relieved of its obligations under this Agreement to the extent that an assignee expressly assumes Company's obligations in a written instrument binding such assignee to City. Subject to the preceding, this Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

ARTICLE IV

CITY'S OBLIGATIONS

1. City agrees that it will not annex, attempt to annex or in any way cause or permit to be annexed any portion of lands or facilities or properties of said Company covered by this Agreement for the period of the agreement except as follows:

(a) If the City determines that annexation of all or any part of the properties covered by this Agreement belonging to said Company is reasonably necessary to promote and protect the general health, safety and welfare of persons residing within or adjacent to the City, the City will notify Company in accordance with State law of the proposed annexation. In the event of such annexation, Company will not be required to make further payment under this Agreement for any calendar year commencing after such annexation with respect to the property so annexed, but shall nevertheless be obligated to make full payment for the year during which such annexation becomes effective if the annexation becomes effective after January 1 of said year.

(b) In the event any municipality other than the City attempts to annex separately or in the event the creation of any new municipality shall be attempted so as to include within its

limits any land which is the subject matter of this Agreement, City shall, with the approval of Company, seek immediate legal relief against any such attempted annexation or incorporation and shall take such other legal steps as may be necessary or advisable under the circumstances with all cost of such action being borne equally by the City and by the said Company or companies with the Company's portion allocated on the basis of assessed values.

2. The City further agrees that during the term of this agreement, there shall not be extended or enforced as to any land and property of Company within said City of Beaumont Industrial District, any rules, regulations, or any other actions: (a) seeking in any way to control the platting and subdivisions of land, (b) prescribing any buildings, electrical, plumbing or inspection standards or equipment, or (c) attempting to regulate or control in any way the conduct of Company's activities, facilities or personnel thereof.

3. It is understood and agreed that during the term of this agreement or any renewals thereof, the City shall not be required to furnish any municipal services to Company's property located within the City of Beaumont Industrial District; provided, however, City agrees to furnish fire protection to Company should such protection be requested by Company in the event an unusual emergency situation occurs. The City will also provide police protection if called upon by the Jefferson County Sheriff's Department for assistance.

ARTICLE V

TERMINATION OF BREACH

It is agreed by the parties to this Agreement that only full, complete and faithful performance of the terms hereof shall satisfy the rights and obligations assumed by the parties and that, therefore, in addition to any action at law for damages which either party may have,

Company shall be entitled to enjoin the enactment or enforcement of any ordinance or charter amendment in violation of, or in conflict with, the terms of this Agreement and shall be entitled to obtain such other equitable relief, including specific performance of the Agreement, as is necessary to enforce its rights. It is further agreed that should this Agreement be breached by Company, the City shall be entitled, in addition to any action at law for damages, to obtain specific performance of this Agreement and such other equitable relief necessary to enforce its rights.

ARTICLE VI

TERM OF AGREEMENT

The term of this Agreement shall be for seven (7) years, commencing January 1, 2016, and ending on December 31, 2022.

ARTICLE VII

NOTICES

Any notice provided for in this Contract, or which may otherwise be required by law shall be given in writing to the parties hereto by Certified Mail addressed as follows:

TO CITY

City Manager
City of Beaumont
801 Main
Beaumont, Texas 77704
Fax: (409) 880-3132

TO COMPANY

DCP Midstream, LP.
Property Tax Division
5718 Westheimer, Suite 1900
Houston, Texas 77057
Fax: (713) 735-3134

ARTICLE VIII
CONTINUATION

If this Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not affect the right of City to any payment made or accruing to City hereunder prior to such adjudication, and this provision is intended to be an independent and separable provision not to be affected by such adjudication.

IN WITNESS THEREOF, this Agreement, consisting of 8 pages, is executed in duplicate counterparts as of this _____ day of _____, 2015.

CITY OF BEAUMONT, TEXAS

By: _____
Kyle Hayes
City Manager

ATTEST:

Tina Broussard
City Clerk

DCP SOUTHEAST TEXAS PLANT, LLC

By: _____

ATTEST:

BEAUMONT

TEXAS

B

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Dr. Joseph Majdalani, P.E., Public Works Director *JM*

MEETING DATE: November 17, 2015

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to execute Change Order No. 1, accept maintenance and release final payment in the amount of \$10,097.89 to Bruce's General Construction, Inc., for the Best Years Center Parking Lot No. 2.

BACKGROUND

On June 2, 2015, by Resolution No. 15-101, City Council awarded Bruce's General Construction, Inc., a contract for the Best Years Center Parking Lot No.2 Project in the amount of \$188,780.50.

Change Order No. 1 is requested due to estimated quantities originally bid that were not required to complete the project resulting in a decrease of (\$2,828.25) to the original contract amount making the final contract amount \$185,952.25.

The project has been inspected by the Engineering Division and found to be complete in accordance with the provisions and terms set out in the contract. It is recommended that final payment in the amount of \$10,097.89 be approved.

FUNDING SOURCE

Capital Program.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO. 15-101

BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF BEAUMONT:

THAT the City Council hereby approves the award of a contract to Bruce's General Construction, Inc., of Beaumont, Texas, in the amount of \$188,780.50 for the Best Years Center Parking Lot No. 2 Project.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 2nd day of
June, 2015.



A handwritten signature in cursive script, reading "Becky Ames". The signature is written in black ink and is positioned above a horizontal line.

- Mayor Becky Ames -

CITY OF BEAUMONT

DATE: NOVEMBER 5, 2015
PROJECT: BEST YEARS CENTER PARKING LOT NO. 2
OWNER: CITY OF BEAUMONT
CONTRACTOR: BRUCE'S GENERAL CONSTRUCTION, INC.
CHANGE ORDER NO.: 01 (FINAL)

THE FOLLOWING CHANGES IN THE PLANS AND/OR SPECIFICATIONS ARE HEREBY MADE:

Adjust the Estimated Quantities to reflect the Actual Quantities used in the completion of the project:

ORIGINAL CONTRACT AMOUNT:	<u>\$188,780.50</u>
NET FROM PREVIOUS CHANGE ORDERS:	<u>\$188,780.50</u>
TOTAL AMOUNT OF THIS CHANGE ORDER:	<u>(\$2,828.25)</u>
PERCENT OF THIS CHANGE ORDER:	<u>-0.015%</u>
TOTAL PERCENT OF THIS CHANGE ORDER:	<u>-0.015%</u>
FINAL CONTRACT AMOUNT:	<u>\$185,952.25</u>

CONTRACT TIME IS NOT AFFECTED BY THIS CHANGE ORDER

ACCEPTED BY:

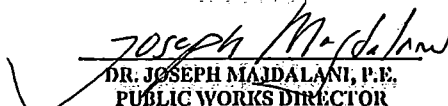

RYAN MORGAN
BRUCE'S GENERAL
CONSTRUCTION, INC.

PREPARED BY:


RAFAEL G. MIRANDA
PROJECT MANAGER

APPROVED BY:


ZHIENG TAN, P.E.
CITY ENGINEER


DR. JOSEPH MAJDALANI, P.E.
PUBLIC WORKS DIRECTOR

KYLE HAYES, CITY MANAGER

ATTESTED BY:

TINA BROUSSARD, CITY CLERK

CITY OF BEAUMONT

ESTIMATE

PAGE 1 OF 1


PROJECT:	BEST YEARS CENTER PARKING LOT NO. 2	CONTRACT AMOUNT:	\$188,780.50	PERCENT OF TIME USED:	100.00%
CONTRACTOR:	BRUCE'S GENERAL CONSTRUCTION, INC.	CONTRACT DATE:	June 22, 2015	PERCENT OF WORK COMPLETED:	98.50%
MONTHLY ESTIMATE #:	04 (FINAL)	CONTRACT CALENDAR DAYS:	90		
PERIOD ENDING:	OCTOBER 1 - 31, 2015	CALENDAR DAYS USED:	90		
CHANGE ORDERS:	01 (FINAL)				

ITEM NO.	DESC CODE	DESCRIPTION	UNIT MEASURE	EST. QTY.	PREVIOUS ESTIMATE	TO DATE ESTIMATE	TOTAL ESTIMATE TO DATE	UNIT PRICE	TOTAL AMOUNT
100	001	Prep ROW (Tree Removal/Salvage)	EA	6	6.00	0.00	6.00	\$600.00	\$3,600.00
104	001	Removing Concrete (4'-8")	SY	31	31.00	3.78	34.78	\$25.00	\$869.50
110	001	Excavation	CY	760	760.00	0.00	760.00	\$16.00	\$12,160.00
132	001	Embankment (Sidewalk)(TY. B)(Ord. Comp.)	CY	57	57.00	0.00	57.00	\$41.00	\$2,337.00
247	001	Flex Base (Ty. A)(Gr. 2)(8") (D.C.)(Comp. in Pl.)	SY	1,968	1,968.00	0.00	1,968.00	\$20.00	\$39,360.00
360	001	Conc. Pymt (Cl. P)(Incl. 6" Curb)	SY	1,929	1,929.00	0.00	1,929.00	\$50.00	\$96,450.00
500	001	Mobilization	LS	1	1.00	0.00	1.00	\$5,000.00	\$5,000.00
506	001	Temp. Erosn., Sed., & Environ. Contrl. (Tube)	EA	2	1.00	0.00	1.00	\$1,500.00	\$1,500.00
531	001	Sidewalks (Cl. A)	SY	201	200.37	3.78	204.15	\$55.00	\$11,228.25
618	001	Conduit (2") (Sch. 40) (Incl. Excav. & Ord. Bkfl.) (Ord. Comp)	LF	181	181.00	0.00	181.00	\$6.50	\$1,176.50
642	001	Ground Box (TY A) (Comp. in Pl.)	EA	1	0.00	0.00	0.00	\$550.00	\$0.00
644	001	Small Road Side Sign Supports & Assemblies (Keep Right)	EA	1	0.00	1.00	1.00	\$500.00	\$500.00
900	001	Precast Concrete Wheel Stops (Comp. in Pl.)	EA	22	22.00	1.00	23.00	\$40.00	\$920.00
666	001	Refl. Pav. Mkrngs. (Ty I) (W) (4") (SLD)(100 MIL)	LF	1,479	1,117.00	0.00	1,117.00	\$2.00	\$2,234.00
678	001	Pav. Surf. Prep. for Mkrngs.	LF	1,479	1,117.00	0.00	1,117.00	\$1.00	\$1,117.00
9000	001	Invie Parking Lot Light (30' Steel Pole) (Incl. Fndn, Electcls & Conduit) (Comp. in Pl.)	EA	1	1.00	0.00	1.00	\$7,500.00	\$7,500.00

PREPARED BY:


 RAFAEL MIRANDA, PROJECT MANAGER

APPROVED BY:


 ZHENG TAN, P.E., CITY ENGINEER


 DR. JOSEPH MAJDALANI, P.E., PUBLIC WORKS DIRECTOR

I certify that all work including materials covered by this invoice have
 been completed or delivered in accordance with Contract documents.


 RYAN MORGAN, BRUCE'S GENERAL CONSTRUCTION, INC.

GRAND TOTAL AMOUNT OF WORK DONE: \$185,952.25

LESS 5% RETAINAGE: \$0.00

SUB-TOTAL: \$185,952.25

LESS PREVIOUS PAY ESTIMATE: \$175,854.36

LESS RETESTING OF BASE COURSE \$490.00

AMOUNT DUE THIS ESTIMATE: \$10,097.89



Bruce's

GENERAL
Construction, Inc.

1175 Reynolds Rd. • Beaumont, TX 77707
Office: 409-866-6245 • Fax: 409-866-8245


October 29, 2015

City of Beaumont
Best Years Center Parking Lot #2

RE: Best Years Concrete Parking Lot #2

As the General Contractor on the Best Years Center Parking Lot #2 Project, Bruce's General Construction, Inc. is providing a warranty against failure from defective material and workmanship for a period of one (1) year from the date of substantial completion, November 1st, 2015.

Sincerely,



Ryan C. Morgan
Vice President

RESOLUTION NO.

WHEREAS, on June 2, 2015, the City Council of the City of Beaumont, Texas, passed Resolution No. 15-101 awarding a contract in the amount of \$188,780.50 to Bruce's General Construction, Inc., of Beaumont, Texas, for the Best Years Center Parking Lot No. 2 Project; and,

WHEREAS, Change Order No. 1, in the amount of (\$2,828.25), is required to adjust the estimated quantities to reflect the actual quantities used in the completion of the project, thereby decreasing the total contract amount to \$185,952.25; and,

WHEREAS, the project has been inspected by the Engineering Division and found to be complete in accordance with the provisions and terms set forth in the contract;

NOW, THEREFORE, BE IT RESOLVED BY THE
CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to execute Change Order No. 1 adjusting quantities used to complete the project as described above, thereby decreasing the contract amount by (\$2,828.25) for a revised total contract amount of \$185,952.25; and,

BE IT FURTHER RESOLVED THAT the Best Years Center Parking Lot No. 2 Project be and the same is hereby accepted; and,

BE IT ALSO RESOLVED THAT the City Manager is hereby authorized to make final payment in the amount of \$10,097.89 to Bruce's General Construction, Inc., of Beaumont, Texas.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of November, 2015.

- Mayor Becky Ames -

BEAUMONT

— T E X A S —

**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS NOVEMBER 17, 2015 1:30 P.M.**

AGENDA

CALL TO ORDER

- * Invocation Pledge Roll Call
- * Presentations and Recognition
- * Public Comment: Persons may speak on scheduled agenda items 1-6 /Consent Agenda
- * Consent Agenda

GENERAL BUSINESS

1. Consider transferring a solid waste transportation service agreement from Enviro Waste Solutions (EWS) to Industrial Transportation Waste LLC
2. Consider authorizing the City Manager to execute an Industrial District Contract with The Goodyear Tire and Rubber Company
3. Consider authorizing the City Manager to execute an Industrial District Contract with Arkema, Inc.
4. Consider authorizing the City Manager to execute an Industrial District Contract with Centana Intrastate Pipeline LLC
5. Consider a resolution authorizing the City Manager to execute Change Order No. 2 for the Washington Boulevard Pavement and Drainage Improvement Project Phase I (Amarillo to Martin Luther King Parkway)
6. Consider a resolution authorizing the City Manager to execute Change Order No. 1, accept maintenance and release final payment to LD Construction for the Delaware Street Asphalt Resurfacing Project – Phase II

WORK SESSION

- * Review and discuss private warranty programs available for customer water/sewer lines
- * Review and discuss options related to the management of the Tennis Center at the Athletic Complex

COMMENTS

- * Councilmembers/City Manager comment on various matters
- * Public Comment (Persons are limited to 3 minutes)

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Mitchell Normand at 880-3777 three days prior to the meeting.

November 17, 2015

Consider transferring a solid waste transportation service agreement from Enviro Waste Solutions (EWS) to Industrial Transportation Waste LLC

BEAUMONT

TEXAS

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer

MEETING DATE: November 17, 2015

REQUESTED ACTION: Council consider transferring a solid waste transportation service agreement from Enviro Waste Solutions (EWS) to Industrial Transportation Waste LLC.

BACKGROUND

On November 2, 2015, Industrial Transportation Waste LLC (ITW) sent a letter to the City indicating that ITW bought Enviro Waste Solutions (EWS). EWS has a solid waste franchise agreement with the City of Beaumont. According to City Ordinance 22.05.101, no person shall engage in the business of collecting, hauling or transporting, in the city, any garbage, waste or refuse, without first having obtained a franchise from the City. Five (5) entities currently have nonexclusive franchise agreements with the City and are doing business in this area. ITW serves southeast Texas with its corporate office located at 2300 Hwy 365, Suite 400 in Nederland.

ITW has requested that the City Council transfer the franchise agreement from EWS to ITW. The existing franchise provides for a term of one year from its effective date and a franchise fee of seven percent (7%) of gross revenues received for service. It also requires the entity to indemnify the City of Beaumont and provide insurance which names the City of Beaumont as a named insured. According to City Charter, unless provided in the ordinance granting the same, no public utility franchise shall be transferable except with the approval of the City Council expressed by ordinance.

FUNDING SOURCE

A franchise fee of seven percent (7%) of gross receipts will be paid to the City.

RECOMMENDATION

Approval of resolution.

ORDINANCE NO.

ENTITLED AN ORDINANCE APPROVING THE TRANSFER OF
THE SOLID WASTE COLLECTION AND TRANSPORTATION
SERVICE FRANCHISE FROM ENVIRO WASTE SOLUTIONS TO
INDUSTRIAL TRANSPORTATION WASTE, LLC.

WHEREAS, by Ordinance No. 11-071, passed on its third and final reading on
October 25, 2011, Enviro Waste Solutions (EWS) was granted a franchise to operate a
solid waste collection and transportation service within the City of Beaumont, Texas;
and,

WHEREAS, Industrial Transportation Waste, LLC (ITW) merged and acquired
EWS effective April of 2015; and,

WHEREAS, ITW has requested a transfer of EWS franchise rights under the
existing franchise; and,

WHEREAS, Section 12 of the Ordinance agreement provides that franchise
rights granted shall not be transferred to another without the approval of the City; and,

WHEREAS, the Council finds that it is in the best interest of the citizens of
Beaumont to approve the transfer;

NOW, THEREFORE, BE IT ORDAINED BY THE

CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this ordinance are hereby,
in all things, approved and adopted; and;

THAT the terms and conditions provided for in Ordinance No. 11-071 are to be
transferred and assigned to and assumed by Industrial Transportation Waste, LLC as
follows:

Section 1.

Grant of Authority

There is hereby granted by the City to Industrial Transportation Waste, LLC (the "Company") the right and privilege to operate and maintain within the City a solid waste collection and transportation service (the "service"). For purposes of this franchise, the term "solid waste collection and transportation service" shall mean the regular business of collection, hauling or transporting any garbage, rubbish, waste or refuse from locations in the City, and the disposal of such material in accordance with law. The franchise granted herein is nonexclusive, and franchises may be granted to other persons for service.

Section 2.

Term of Franchise

The franchise herein granted shall take effect and be in force after the final passage hereof as required by law and upon the filing by the Company of an acceptance with the City Clerk, and shall continue in force and effect for the remainder of the original term of the franchise. The acceptance required hereunder must be in writing and filed with the City Clerk within thirty (30) days after final passage hereof. Upon the expiration of the term hereof, this franchise shall continue on a month-to-month basis until terminated by either party or extended or replaced.

Section 3.

Rates

The Company shall establish rates for service which are uniform as to customer class based upon such criteria as type of waste, container size, frequency of collection,

and distance of travel. The Company shall file its initial rates for service with its acceptance as required herein. Such rates shall, unless modified by the City, be effective with the effective date of this franchise. Any modifications in rates by the Company shall first be filed with the City Clerk and City Attorney and shall be effective thirty (30) days after such filing unless modified by City as provided herein. Nothing herein shall prevent the Company from charging uniform rates which are less than the rates filed with the City. The City shall have the right to establish rates charged by Company for services performed hereunder, after notice and hearing. Rates established by the City shall be sufficient to allow the Company an opportunity to earn a reasonable return on its invested capital used in providing such services.

Section 4.

Franchise Fee

The Company shall pay to the City, on or before the fifteenth (15th) day of each month, a sum equal to SEVEN PERCENT (7%) of the gross revenues received for service in the previous month as payment for the use of the City's streets, alleys and rights-of-way. The payments herein provided do not relieve Company from the payment of ad valorem taxes, special assessments, charges, or other fees applicable to the public generally. City shall have the right, at any reasonable time, to audit the books and records of the Company and the Company is hereby required to make such books and records available at the request of City. Upon written acceptance, the Company shall furnish to the City a listing of customers served, including customer name, address, frequency of pick-up, size of container or type of service and charge for same.

The following reports shall be filed monthly with the City Manager or his designee along with the street rental payment required herein:

Upon written request and within thirty (30) days of receipt, the Company shall furnish to the City adequate reconciliation of reported revenues which would include: a listing of names and addresses of all customers served, frequency of pick-up, size of container or type of service and charge for same, and date service was initiated and discontinued.

Section 5.

Indemnity, Insurance and Bond

The Company shall at all times during the effective period of this franchise, carry liability insurance as provided herein. The Company covenants and agrees at all times to indemnify and save harmless the City, its officers, agents, employees, and any member of the public against any and all injuries, damages, claims, causes of action or loss of compensation arising or resulting from Company's operations under this franchise, whether or not such loss was caused by the negligence of the City, its agents, servants or employees. Upon notice given Company by City, Company must defend at its own expense, any action or suit brought against the City because of any work or other acts done by the Company under the terms of this franchise. Counsel chosen by Company to defend City must be satisfactory to City. Company will pay any final judgment which might be obtained against City by reason of any work or acts done hereunder by Company, its agents, servants or employees, and Company will pay all damages occurring to any person or property, public or private, resulting from any fault or neglect on its part or on the part of its agents or employees.

The Company agrees to carry insurance as follows:

1) Workers' Compensation

The Company shall furnish the City Clerk a certificate of insurance indicating workers' compensation coverage as required by the State of Texas.

2) Automobile Liability Insurance

The Company shall carry, in its own name, a policy in comprehensive form to insure the automobile liability of its operation with limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per occurrence for bodily injury and, in addition, not less than One Hundred Thousand Dollars (\$100,000.00) property damage. This policy shall include City as an additional named insured and provide for thirty (30) days notice to City prior to cancellation. A certificate of insurance certifying such coverage shall be filed with the City Clerk before the effective date of this franchise, and it shall be maintained in force during the term of the franchise.

3) General Liability

The Company shall carry, in its own name, a comprehensive liability insurance policy including contractual coverage for operations other than automobile with limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per occurrence for bodily injury, and One Hundred Thousand Dollars (\$100,000.00) per occurrence for property damage. The policy shall name the City as named insured and provide for thirty (30) days notice to City prior to cancellation. A certificate of insurance certifying such coverage shall be filed with the City Clerk before the effective date of this franchise and maintained in force during the term of the franchise.

Section 6.

Compliance with Laws and Ordinances

The Company shall, at all times during the term of this franchise, be subject to all lawful exercise of police power by the City and to such reasonable regulations as the City shall hereafter by ordinance provide. In addition, the Company will observe all city, county, state, and federal laws regulating the collection and disposal of solid waste.

Section 7.

Service Standard and Equipment

The Company shall maintain and operate its collection system and equipment in good order to render efficient service subject to the terms of this franchise. All vehicles, containers, and equipment used for the collection and transportation of solid waste shall be constructed, operated and maintained to prevent loss of liquid or solid waste material and to minimize health and safety hazards to solid waste management personnel and the public. Such vehicles, containers, and equipment used shall be maintained in a clean, sanitary condition and free from odors at all times. All vehicles and equipment shall comply with federal, state, and local regulations. Collection vehicles and all bulk, commercial, and roll-off type containers shall be painted and numbered and shall have the Company's name and telephone number painted in letters of a contrasting color. Such containers may not be placed on any street or right-of-way within the City. All collections shall be made directly from the premises of the customer and any emptied containers returned directly to such premises.

Section 8.

Providing Services

The Company shall provide service to any person, firm, corporation, association or entity inside the City of Beaumont who requests such service and is not delinquent in the payment of collection charges due the Company.

Section 9.

Office

The Company shall establish and maintain an office with telephone service and shall keep said office open for business from 9:00 A.M. to 5:00 P.M. each and every day except Saturday, Sunday and holidays.

Section 10.

Interruption of Service

In the event that service shall be interrupted for any reason for more than forty-eight (48) hours, the City shall have the right to make temporary independent arrangements for the purposes of continuing this necessary service to its residents in order to provide or protect the public health and safety. If the interruption in service mentioned herein continues for a period of seventy-two (72) hours, then the City shall have the right to terminate the rights and privileges granted in this franchise.

Section 11.

Termination

In the event that any provision of this franchise is violated by the Company, the City may serve written notice upon the Company of its intention to terminate this franchise. The notice shall contain the reasons for such intention to terminate the franchise. Unless within ten (10) days after mailing such notice by City to the Company, such violation shall cease, or satisfactorily arrangements for correction be made by Company, the City Council may, after a public hearing in which Company is provided an opportunity to present evidence concerning such violation, declare the franchise

terminated and serve written notice upon the Company of the termination and the termination of the franchise shall be effective upon the mailing of such notice.

Section 12.

Transfer of Franchise Rights

Franchise rights granted hereunder shall not be transferred to another without the approval of City. A single transfer or a series of transfers of Company's stock which constitute a transfer of a majority interest in Company is subject to the prior approval of City.

Section 13.

Notices

Where written notices are provided for in this ordinance, same shall be sufficient to notify Company when provided by certified mail to the address furnished by Company to City. Notice to City is sufficient if mailed by certified mail to City Manager, P.O. Box 3827, Beaumont, Texas 77704.

Section 14.

If any section, sentence, clause, paragraph or phrase of this ordinance, other than Section 4, is for any reason held to be invalid or illegal, such invalidity shall not affect the remaining portions of this ordinance. If Section 4 hereof is held to be invalid for any reason, the ordinance shall be immediately invalid.

Section 15.

It is agreed by City and Company that venue of any legal proceedings under this franchise agreement shall be in Jefferson County, Texas.

Section 16.

Vehicle Permits

Twenty (20) days prior to the effective date of this franchise, the Company shall furnish to the City a list of all vehicles to be providing solid waste collection and disposal service under this franchise. Such list shall include state license number, year, make, model and manufacturer's rated capacity for each vehicle. Vehicles not having a valid City of Beaumont landfill permit will not be allowed to operate under this agreement nor utilize the City refuse disposal facility. If at any time a vehicle or equipment is found to be in noncompliance with Section 7 of this franchise, the Company will be notified of its violation and said equipment or vehicle shall be removed from service upon receipt of written notification.

Failure to comply with this provision or to falsify the information concerning the location of the service of the vehicle shall be a material breach of this franchise. Should City decide not to terminate this franchise because of any violation of this Section, Company's disposal fee at City's landfill shall be doubled for all of Company's vehicles for a period of sixty (60) days.

PASSED BY THE CITY COUNCIL of the City of Beaumont on this the 17th day of November, 2015.

- Mayor Becky Ames -

November 17, 2015


Consider authorizing the City Manager to execute an Industrial District Contract with The Goodyear Tire and Rubber Company

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer 

MEETING DATE: November 17, 2015

REQUESTED ACTION: Council consider authorizing the City Manager to execute an Industrial District Contract with The Goodyear Tire and Rubber Company.

BACKGROUND

Industrial District Contracts enable the City to collect payments in lieu of taxes from industries located outside the city limits but within the extra territorial jurisdiction of the city.

The City currently has a contract with The Goodyear Tire and Rubber Company that will expire December 31, 2015. The new contract will be effective January 1, 2016. The in-lieu of tax payment will be based on a ratio of 80% of property taxes due to the City as if the industry were located within the city limits in 2016 through 2018 and 75% of property taxes due to the City in 2019 through 2022. The 2016 payment will be calculated based on 80% of the assessed value multiplied by the tax rate effective on October 1, 2015 or \$0.69 per \$100 of assessed valuation. The payments at 80% are subject to a floor and ceiling of 10% of the prior year payment and those at 75% are subject a floor and ceiling of 7%. Payments will be due to the City by February 1st of each year.

A copy of the agreement is attached for your review.

FUNDING SOURCE

The estimated FY 2016 payment is \$1,051,900.

RECOMMENDATION

Approval of the resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute an Industrial District Agreement with The Goodyear Tire and Rubber Company, of Akron, Ohio. The agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of November, 2015.

- Mayor Becky Ames -

THE STATE OF TEXAS §
COUNTY OF JEFFERSON §

AGREEMENT

This Agreement is made under the authority of Section 42.044 of the Texas Local Government Code.

The parties to the Agreement are The City of Beaumont, a municipal corporation and a home-rule city located in Jefferson County, Texas, hereinafter called "CITY," and The Goodyear Tire and Rubber Company, its parent, subsidiaries and affiliates, hereinafter called "COMPANY."

PREAMBLE

WHEREAS, Company owns land and improvements which are a part of the manufacturing, industrial, and refining facilities of said Company. The City has established an industrial district comprising a certain part of the extra-territorial jurisdiction of the City, such industrial district being known as the City of Beaumont Industrial District.

WHEREAS, the Company recognizes the benefits of this Agreement and an obligation to contribute to the revenue needs of said City in an amount commensurate with the burdens placed upon the City and benefits derived by the Company by reason of being located immediately adjacent to said City.

WHEREAS, the Company and the City desire to base the industrial district payment on assessed value to ensure equity among the companies.

In view of the above and foregoing reasons, and in consideration of the mutual agreements herein contained, Company and City hereby agree as follows:

ARTICLE I

COMPANY'S OBLIGATION

Annual Payment on Company's Property

1. Commencing with the calendar year 2016 and each calendar year thereafter for the duration of this Contract, the Company will pay the City a certain sum which will be computed on the assessed value of the Company's facilities and property, real, personal, and mixed located on Company's land covered by this contract. (Herein "the properties").

2. By the term "Assessed Value" is meant the 100% valuation of the Company properties, as determined by the Jefferson County Appraisal District for the previous tax year.

3. The term "assumed City taxes due" shall be calculated by the following formula:

Assumed City Taxes Due:

$$\text{Assessed Value} / 100 \times \text{Current City Tax Rate} = \text{Assumed City Tax Due}$$

4. Payment Procedures

The procedures for determining and making such payments shall be as follows:

(a) The payment for 2016 shall be due and payable on or before February 1, 2016, and calculated as follows:

Assumed City Taxes Due:

$$\text{Assessed Value} / 100 \times \text{Current City Tax Rate} = \text{Assumed City Tax Due}$$

$$\text{Year 1 } 80\% \text{ of Assumed City Taxes Due} = \text{Payment due}$$

Each October, the Chief Financial Officer shall obtain the most recent assessed values as set by the Jefferson County Appraisal District for the Company's properties, real, personal and mixed, having taxable situs within the areas described in this Agreement; for example, in October, 2015, the 2015 assessed values shall be used for the February 1, 2016 payment. This assessed value, less exclusions as described in Article 10, shall be used in the calculation of the payment.

If the assessed values for the period required are in question and/or under litigation with the Jefferson County Appraisal District, payment shall be computed on the most recent certified values from the Jefferson County Appraisal District. The Company shall notify the City following resolution of the appraised value question and an adjustment for the payment, without interest, will be made within thirty (30) days following such resolution.

(b) After the assessed value of the Company's properties has been determined, the payments due hereunder shall be calculated in accordance with the following schedule:

The 2016 - 2018 payments shall be 80% of assumed City taxes due, except such payment shall not exceed or be less than the 2015 payment by 10%.

The 2019 - 2022 payments shall be 75% of assumed City taxes due, except such payment shall not exceed or be less than the previous year's payment by 7%.

(c) City hereby agrees to bill Company for its payments due hereunder on or before January 1 each year. Company shall pay to City the amount billed on or before February 1 each year. Upon receiving the final payment, the Chief Financial Officer shall issue an official receipt of said City acknowledging full, timely, final and complete payment due by said Company to City for the property involved in this Agreement for the year in which such payment is made. If payment is not made on or before any due date, the same penalties, interest, attorneys' fees and costs of collection shall be recoverable by the City as would be collectible in the case of

delinquent ad valorem taxes. Further, if payment is not timely made, all payments which otherwise would have been paid to the City had Company been in the City limits of City will be recaptured and paid to the City within 60 days of any such event.

ARTICLE II

PROPERTY COVERED BY AGREEMENT

This instrument will reflect the intention of the parties hereto that this instrument shall govern and affect the properties of Company (facilities, real, personal, and mixed) located on Company's real property as shown on the records of the Jefferson County Appraisal District, which are within the extra-territorial jurisdiction of the City of Beaumont.

ARTICLE III

SALE BY COMPANY

Company shall notify City of any sale of any or all of Company's facilities to any person or entity. It is the intent of the parties that no sale of any of Company's facilities will affect the amount to be paid to the City as provided under this Agreement. Accordingly and as to payments due under this contract no such sale shall reduce the amount due the City under this contract until the purchaser of such facility has entered into a contract in lieu of taxes with the City that provides for a continuation of like payments to the City.

ARTICLE IV

CITY'S OBLIGATIONS

1. City agrees that it will not annex, attempt to annex or in any way cause or permit to be annexed any portion of lands or facilities or properties of said Company covered by this Agreement for the period of the agreement except as follows:

(a) If the City determines that annexation of all or any part of the properties covered by this Agreement belonging to said Company is reasonably necessary to promote and protect the general health, safety and welfare of persons residing within or adjacent to the City, the City will notify Company in accordance with State law of the proposed annexation. In the event of such annexation, Company will not be required to make further payment under this Agreement for any calendar year commencing after such annexation with respect to the property so annexed, but shall nevertheless be obligated to make full payment for the year during which such annexation becomes effective if the annexation becomes effective after January 1st of said year.

(b) In the event any municipality other than the City attempts to annex separately or in the event the creation of any new municipality shall be attempted so as to include within its limits any land which is the subject matter of this Agreement, City shall, with the approval of Company, seek immediate legal relief against any such attempted annexation or incorporation and shall take such other legal steps as may be necessary or advisable under the circumstances with all cost of such action being borne equally by the City and by the said Company or companies with the Company's portion allocated on the basis of assessed values.

2. The City further agrees that during the term of this agreement, there shall not be extended or enforced as to any land and property of Company within said City of Beaumont Industrial District, any rules, regulations, or any other actions: (a) seeking in any way to control the platting and subdivisions of land, (b) prescribing any buildings, electrical, plumbing or inspection standards or equipment, or (c) attempting to regulate or control in any way the conduct of Company's activities, facilities or personnel thereof.

3. It is understood and agreed that during the term of this Agreement or any renewals thereof, the City shall not be required to furnish any municipal services to Company's property

located within the City of Beaumont Industrial District; provided, however, City agrees to furnish fire protection to Company should such protection be requested by Company in the event an unusual emergency situation occurs.

ARTICLE V

TERMINATION OF BREACH

It is agreed by the parties to this Agreement that only full, complete and faithful performance of the terms hereof shall satisfy the rights and obligations assumed by the parties and that, therefore, in addition to any action at law for damages which either party may have, Company shall be entitled to enjoin the enactment or enforcement of any ordinance or charter amendment in violation of, or in conflict with, the terms of this Agreement and shall be entitled to obtain such other equitable relief, including specific performance of the Agreement, as is necessary to enforce its rights. It is further agreed that should this Agreement be breached by Company, the City shall be entitled, in addition to any action at law for damages, to obtain specific performance of this Agreement and such other equitable relief necessary to enforce its rights.

ARTICLE VI

AFFILIATES

The benefits accruing to Company under this Agreement shall also extend to Company's "parent", "affiliates" and to any properties owned or acquired by said parent and affiliates within the area described in Exhibit "A" to this Agreement, and where reference is made herein to land, property and improvements owned by Company, that shall also include land, property and improvements owned by its parent and or affiliates. The word "affiliates" as used herein shall mean all companies with respect to which Company directly or indirectly, through one or more intermediaries at the time in question, owns or has the power to exercise the control over fifty percent (50%) or more of the stock having the right to vote for the election of directors. The word "parent" as used herein shall mean all companies which directly or indirectly, through one or more intermediaries at the time in question owns or has the power to exercise control over fifty percent (50%) of the stock having the right to vote for the election of directors of Company.

ARTICLE VII

TERM OF AGREEMENT

The term of this Agreement shall be for seven (7) years, commencing January 1, 2016, and ending on December 31, 2022.

ARTICLE VIII

CONTRACT REOPENERS

Either party, by giving written notice to the other party a minimum of one hundred twenty (120) days prior to the end of the fifth year of this contract may reopen for negotiation any portion or all of this Agreement for the years 2021 and 2022.

ARTICLE IX

NOTICES

Any notice provided for in this Contract, or which may otherwise be required by law shall be given in writing to the parties hereto by Certified Mail addressed as follows:

TO CITY

City Manager
City of Beaumont
801 Main
P. O. Box 3827
Beaumont, Texas 77704

TO COMPANY

The Goodyear Tire & Rubber Company
Attn: Secretary
1144 East Market Street
Akron, Ohio 44316

ARTICLE X

EXCLUSIONS

1. In determining the assessed value of the Company facilities there may be excluded therefrom the value of any new plant facilities or modernization of or additions that increase the assessed value of Company's properties. "Significantly increase" shall be defined as an increase in assessed value of thirty percent (30%) or more above the assessed value of Company's properties the year prior to the year construction began. The intent of this exclusion is to encourage major new capital investment within the extraterritorial environs of the City. Determination of qualifications for this exclusion shall be made by the City Manager upon petition by Company and presentation of all pertinent data. This exclusion will be restricted to include only a new and distinct processing facility or modernization of or additions to present facilities and shall not include the maintenance, reconditioning, replacement, upgrading, refurbishing or repairing of existing process facilities.

Company shall notify the City Manager of its intention to claim exclusion at least one hundred twenty (120) days prior to the end of the calendar year prior to the year in which the

exclusion will take place. Subject to the upper and lower limitations on payments set out in Article I 4 (c) hereof, Company agrees that to whatever extent that the non-excluded plant's assessed value on realty improvements is reduced for whatever reason (excepting from fire, explosion, or other casualty or accident or from any natural disaster), an equivalent amount (dollar for dollar) of assessed value on realty improvements of the excluded facilities shall be deemed for the purposes of this Agreement to lose its exclusion for the current year and accordingly shall be deemed to be included in the non-excluded plant's total assessed value and payments shall be calculated and made by Company thereon to City for the subsequent year; however, in no event shall the offset exceed the fair market value of the realty improvements that would otherwise be excluded. Company agrees to provide the City Manager with all the information necessary for the City Manager to determine whether the expenditure by the Company is qualified for exclusion.

The exclusion shall commence the first calendar year following the completion of construction and it shall be in the amount of 100% for the first, second and third years, 75% of value for the fourth and fifth years, and 50% of value for the remaining years of this contract.

2. In determining the assessed value of the Company's facilities, there is also to be excluded therefrom the value of incomplete construction also known as construction in progress. This exclusion applies to new and distinct plant facilities or modernization of or additions to present facilities as specified in item (1) above, regardless of whether such will significantly increase the assessed values of Company's properties.

3. If a question arises relating to the exclusion amount, payment shall be made based on the last certified assessed value, without the questioned exclusion. An adjustment to the payment, if any, shall be made following resolution of the question. The determination

concerning whether a capital expenditure by Company is qualified for exclusion hereunder shall be made by the City Manager. Any appeal of the decision of the City Manager shall be made in writing to the City Council within fifteen (15) days of the decision of the Manager. The decision of the City Council shall be final.

ARTICLE XI

CONTINUATION

If this Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not affect the right of City to any payment made or accruing to City hereunder prior to such adjudication, and this provision is intended to be an independent and separable provision not to be affected by such adjudication.

IN WITNESS THEREOF, this Agreement, consisting of 11 pages is executed in duplicate counterparts as of this _____ day of _____, 2015.

CITY OF BEAUMONT, TEXAS

By: _____
Kyle Hayes
City Manager

ATTEST:

Tina Broussard
City Clerk

THE GOODYEAR TIRE & RUBBER COMPANY

By: _____

ATTEST:

November 17, 2015


Consider authorizing the City Manager to execute an Industrial District Contract with Arkema, Inc.

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer 

MEETING DATE: November 17, 2015

REQUESTED ACTION: Council consider authorizing the City Manager to execute an Industrial District Contract with Arkema, Inc.

BACKGROUND

Industrial District Contracts enable the City to collect payments in lieu of taxes from industries located outside the city limits but within the extra territorial jurisdiction of the city.

The City currently has a contract with Arkema, Inc., that will expire December 31, 2015. The new contract will be effective January 1, 2016. The in-lieu of tax payment will be based on a ratio of 80% of property taxes due to the City as if the industry were located within the city limits in 2016 through 2018 and 75% of property taxes due to the City in 2019 through 2022. The 2016 payment will be calculated based on 80% of the assessed value multiplied by the tax rate effective on October 1, 2015 or \$0.69 per \$100 of assessed valuation. Payments will be due to the City by February 1st of each year.

A copy of the agreement is attached for your review.

FUNDING SOURCE

Arkema's payment in FY 2015 was \$699,239. The estimated FY 2016 payment is \$681,000.

RECOMMENDATION

Approval of the resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute an Industrial District Agreement with Arkema, Inc., of Beaumont, Texas. The agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of November, 2015.

- Mayor Becky Ames -

THE STATE OF TEXAS

§

COUNTY OF JEFFERSON

§

AGREEMENT

This Agreement is made under the authority of Section 42.044 of the Texas Local Government Code.

The parties to the Agreement are The City of Beaumont, a municipal corporation and a home-rule city located in Jefferson County, Texas, hereinafter called "CITY," and Arkema Inc., its parent, subsidiaries and affiliates, hereinafter called "COMPANY."

PREAMBLE

WHEREAS, Company owns land and improvements which are a part of the manufacturing, industrial, and refining facilities of said Company. The City has established an industrial district comprising a certain part of the extra-territorial jurisdiction of the City, such industrial district being known as the City of Beaumont Industrial District.

WHEREAS, the Company recognizes the benefits of this Agreement and an obligation to contribute to the revenue needs of said City in an amount commensurate with the burdens placed upon the City and benefits derived by the Company by reason of being located immediately adjacent to said City.

WHEREAS, the Company and the City desire to base the industrial district payment on assessed value to ensure equity among the companies.

In view of the above and foregoing reasons, and in consideration of the mutual agreements herein contained, Company and City hereby agree as follows:

ARTICLE I

COMPANY'S OBLIGATION

Annual Payment on Company's Property

1. Commencing with the calendar year 2016 and each calendar year thereafter for the duration of this Contract, the Company will pay the City a certain sum which will be computed on the assessed value of the Company's facilities and property, real, personal, and mixed, located on Company's land covered by this contract as described in Article II (hereinafter called "the properties").

2. By the term "Assessed Value" is meant the 100% valuation of the Company's properties, as determined by the Jefferson County Appraisal District for the previous tax year.

3. The term "assumed City taxes due" shall be calculated by the following formula:

Assumed City Taxes Due:

$$\text{Assessed Value} / 100 \times \text{Current City Tax Rate} = \text{Assumed City Tax Due}$$

4. Payment Procedures

The procedures for determining and making such payments shall be as follows:

(a) The payment for 2016 shall be due and payable on or before February 1, 2016.

The February 1, 2016 payment is calculated as follows:

Assumed City Taxes Due:

$$\text{Assessed Value} / 100 \times \text{Current City Tax Rate} = \text{Assumed City Tax Due}$$
$$\text{Year 1 } 80\% \text{ of Assumed City Taxes Due} = \text{2016 Payment Due}$$

Each October thereafter, the Chief Financial Officer shall obtain the most recent assessed values as set by the Jefferson County Appraisal District for the Company's properties, real, personal and mixed, having taxable situs within the areas described in this Agreement; for example, in October, 2015, the 2015 assessed values shall be used for the February 1, 2016 payment. This assessed value shall be used in the calculation of the payment.

If the assessed values for the period required are in question and/or under litigation with the Jefferson County Appraisal District, payment shall be computed on the most recent certified values from the Jefferson County Appraisal District. The Company shall notify the City following resolution of the appraised value question and an adjustment for the payment, without interest, will be made within thirty (30) days following such resolution.

(b) After the assessed value of the Company's properties has been determined, the payment due hereunder shall be calculated in accordance with the following schedule:

The 2016 - 2018 payments shall be 80% of assumed City taxes due.

The 2019 - 2022 payments shall be 75% of assumed City taxes due.

(c) City hereby agrees to bill Company for its payments due hereunder on or before January 1 each year. Company shall pay to City such amount billed on or before February 1 each year. Upon receiving the final payment, the Chief Financial Officer shall issue an official

receipt of said City acknowledging full, timely, final and complete payment due by said Company to City for the property involved in this Agreement for the year in which such payment is made. If any annual payment is not made on or before any due date, the same penalties, interest, attorneys' fees and costs of collection shall be recoverable by the City as would be collectible in the case of delinquent ad valorem taxes. Further, if payment is not timely made, all payments which otherwise would have been paid to the City had Company been in the City limits of City will be recaptured and paid to the City within 60 days of any such event.

(d) Novus leases land from Company for its interest in improvements made prior to 2008. The value of Novus assets will be subject to provisions of this Agreement. No separate agreement with Novus will be executed.

ARTICLE II

PROPERTY COVERED BY AGREEMENT

This instrument will reflect the intention of the parties hereto that this instrument shall govern and affect the properties of Company (facilities, real, personal, and mixed) and Novus located on Company's real property as shown on the records of the Jefferson County Appraisal District, which are within the extra-territorial jurisdiction of the City of Beaumont.

ARTICLE III

SALE BY COMPANY

Company shall notify City of any sale of any or all of Company's properties to any person or entity. It is the intent of the parties that no sale of any of Company's properties will affect the amount to be paid to the City under this Agreement. As to payments due under this contract, no such sale shall reduce the amount due the City under this contract until the purchaser

of such property has entered into a contract in lieu of taxes with the City that provides for a continuation of payments to the City as if no such sale had been made.

ARTICLE IV

CITY'S OBLIGATIONS

1. City agrees that it will not annex, attempt to annex or in any way cause or permit to be annexed any portion of Company's properties covered by this Agreement for the period of the agreement except as follows:

(a) If the City determines that annexation of all or any part of the Company's properties covered by this Agreement belonging to said Company is reasonably necessary to promote and protect the general health, safety and welfare of persons residing within or adjacent to the City, the City will notify Company in accordance with State law of the proposed annexation. In the event of such annexation, Company will not be required to make further payment under this Agreement for any calendar year commencing after such annexation with respect to the property so annexed, but shall nevertheless be obligated to make full payment for the year during which such annexation becomes effective if the annexation becomes effective after January 1st of said year.

(b) In the event any municipality other than the City attempts to annex separately or in the event the creation of any new municipality shall be attempted so as to include within its limits of the Company's properties, City shall, with the approval of Company, seek immediate legal relief against any such attempted annexation or incorporation and shall take such other legal steps as may be necessary or advisable under the circumstances with all cost of such action

being borne equally by the City and by the said Company and any other companies within the area proposed to be annexed or incorporated, with the Company's portion allocated on the basis of assessed values.

2. The City further agrees that during the term of this agreement, there shall not be extended or enforced as to any land and property of the Company within said City of Beaumont Industrial District, any rules, regulations, or any other actions: (a) seeking in any way to control the platting and subdivisions of land, (b) prescribing any buildings, electrical, plumbing or inspection standards or equipment, or (c) attempting to regulate or control in any way the conduct of Company's activities, facilities or personnel thereof.

3. It is understood and agreed that during the term of this agreement or any renewals thereof, the City shall not be required to furnish any municipal services to Company's property; provided, however, City agrees to furnish fire protection to Company should such protection be requested by Company in the event an unusual emergency situation occurs.

ARTICLE V

TERMINATION

It is agreed by the parties to this Agreement that only full, complete and faithful performance of the terms hereof shall satisfy the rights and obligations assumed by the parties and that, therefore, in addition to any action at law for damages which either party may have, Company may enjoin the enactment or enforcement of any ordinance or charter amendment in violation of, or in conflict with, the terms of this Agreement and may obtain such other equitable relief, including specific performance of the Agreement, as is necessary to enforce its rights. It is further agreed that should this Agreement be breached by Company, the City shall be entitled, in

addition to any action at law for damages, to obtain specific performance of this Agreement and such other equitable relief necessary to enforce its rights.

ARTICLE VI

AFFILIATES

The benefits accruing to Company under this Agreement shall also extend to Company's "affiliates" and to any properties owned or acquired by said affiliates within the area described in Exhibit "A" to this Agreement, and where reference is made herein to properties and improvements owned by Company that shall also include land, property and improvements owned by its affiliates. The word "affiliates" as used herein shall mean all companies with respect to which Company directly or indirectly, through one or more intermediaries at the time in question, owns or has the power to exercise the control over fifty percent (50%) or more of the stock having the right to vote for the election of directors.

ARTICLE VII

TERM OF AGREEMENT

The term of this Agreement shall be for seven (7) years, commencing January 1, 2016, and ending on December 31, 2022.

ARTICLE VIII

NOTICES

Any notice provided for in this Contract, or which may otherwise be required by law shall be given in writing to the parties hereto by Certified Mail addressed as follows:

TO CITY

City Manager
City of Beaumont
P. O. Box 3827
Beaumont, Texas 77704

TO COMPANY

Plant Manager
Arkema Inc.
P. O. Box 1427
Beaumont, Texas 77704

Copy to:

Horacio Correa, Manager
Ryan, LLC
2800 Post Oak, 42nd Floor
Houston, Texas 77056

ARTICLE IX

CONTINUATION

If this Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not affect the right of City to any payment made or accruing to City hereunder prior to such adjudication, and this provision is intended to be an independent and separable provision not to be affected by such adjudication.

IN WITNESS THEREOF, this Agreement, consisting of 9 pages, is executed in duplicate counterparts as of this _____ day of _____, 2015.

CITY OF BEAUMONT, TEXAS

By: _____
Kyle Hayes
City Manager

ATTEST:

Tina Broussard
City Clerk

ARKEMA, INC.

By: _____

ATTEST:


November 17, 2015

Consider authorizing the City Manager to execute an Industrial District Contract with Centana Intrastate Pipeline LLC



TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark, Chief Financial Officer 

MEETING DATE: November 17, 2015

REQUESTED ACTION: Council consider authorizing the City Manager to execute an Industrial District Contract with Centana Intrastate Pipeline LLC.

BACKGROUND

Industrial District Contracts enable the City to collect payments in lieu of taxes from industries located outside the city limits but within the extra territorial jurisdiction of the city.

The City currently has a contract with Centana Intrastate Pipeline LLC that will expire December 31, 2015. The new contract will be effective January 1, 2016. The in-lieu of tax payment will be based on a ratio of 80% of property taxes due to the City as if the industry were located within the city limits in 2016 through 2018 and 75% of property taxes due to the City in 2019 through 2022. The 2016 payment will be calculated based on 80% of the assessed value multiplied by the tax rate effective on October 1, 2015 or \$0.69 per \$100 of assessed valuation. Payments will be due to the City by February 1st of each year.

A copy of the agreement is attached for your review.

FUNDING SOURCE

The estimated FY 2016 payment is \$604,800.

RECOMMENDATION

Approval of the resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute an Industrial District Agreement with Centana Intrastate Pipeline, L.L.C., of Houston, Texas. The agreement is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of November, 2015.

- Mayor Becky Ames -

ARTICLE I

COMPANY'S OBLIGATION

Annual Payment on Company's Property

1. Commencing with the calendar year 2016 and each calendar year thereafter for the duration of this Contract, the Company will pay the City a certain sum which will be computed on the assessed value of the Company's facilities and property, real, personal, and mixed located on Company's land covered by this contract. (Herein "the properties")

2. By the term "Assessed Value" is meant the 100% valuation of the Company's properties, as determined by the Jefferson County Appraisal District for the previous tax year.

3. The term "assumed City taxes due" shall be calculated by the following formula:

Assumed City Taxes Due:

$$\text{Assessed Value} / 100 \times \text{Current City Tax Rate} = \text{Assumed City Tax Due}$$

4. Payment Procedures

The procedures for determining and making such payments shall be as follows:

(a) The payment for 2016 shall be due and payable on or before February 1, 2016, and calculated as follows:

Assumed City Taxes Due:

$$\text{Assessed Value} / 100 \times \text{Current City Tax Rate} = \text{Assumed City Tax Due}$$
$$\text{Year 1 } 80\% \text{ of Assumed City Taxes Due} = \text{2016 Payment}$$

Each October thereafter, the Chief Financial Officer shall obtain the most recent assessed values as set by the Jefferson County Appraisal District for the Company's properties, real, personal and mixed, having taxable situs within the areas described in this agreement; for example, in October, 2015, the 2015 assessed values shall be used for the February 1, 2016 payment.

If the assessed values for the period required are in question and/or under litigation with the Jefferson County Appraisal District, payment shall be computed on the most recent certified values from the Jefferson County Appraisal District. The Company shall notify the City following resolution of the appraised value question and an adjustment for the payment, without interest, will be made within thirty (30) days following such resolution.

(b) After the assessed value of the Company's properties has been determined, the payments due hereunder shall be calculated in accordance with the following schedule:

The 2016 - 2018 payments shall be 80% of assumed City taxes due.

The 2019 - 2022 payments shall be 75% of assumed City taxes.

(c) City hereby agrees to bill Company for its payments due hereunder on or before January 1 each year. Company shall pay to City the amount billed on or before February 1 each year. Upon receiving the final payment, the Chief Financial Officer shall issue an official receipt

of said City acknowledging full, timely, final and complete payment due by said Company to City for the property involved in this Agreement for the year in which such payment is made. If payment is not made on or before any due date, the same penalties, interest, attorneys' fees and costs of collection shall be recoverable by the City as would be collectible in the case of delinquent ad valorem taxes. Further, if payment is not timely made, all payments which otherwise would have been paid to the City had Company been in the City limits of City will be recaptured and paid to the City within 60 days of any such event.

ARTICLE II

PROPERTY COVERED BY AGREEMENT

This instrument will reflect the intention of the parties hereto that this instrument shall govern and affect the properties of Company (facilities, real, personal, and mixed) located on Company's real property as shown on the records of the Jefferson County Appraisal District which are within the extra-territorial jurisdiction of the City of Beaumont.

ARTICLE III

SALE BY COMPANY

1. Company shall notify City of any sale of any or all of Company's facilities to any person or entity. It is the intent of the parties that no sale of any of Company's facilities will affect the amount to be paid to City as provided under this Agreement. Accordingly, and as to payments due under this Agreement, no such sale shall reduce the amount due City under this Agreement until the purchaser of such facility has entered into a contract in lieu of taxes with City that provides for a continuation of like payments to City.

2. Company shall have the right to assign, transfer or convey all, or any part of, its rights, title and interest in the Agreement in connection with any transfer or conveyance of title to all or any part of the properties subject to this Agreement to any person or entity at any time of this Agreement; provided, however, that Company shall provide City with written notice of such assignment. Company shall be relieved of its obligations under this Agreement to the extent that an assignee expressly assumes Company's obligations in a written instrument binding such assignee to City. Subject to the preceding, this Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

ARTICLE IV

CITY'S OBLIGATIONS

1. City agrees that it will not annex, attempt to annex or in any way cause or permit to be annexed any portion of lands or facilities or properties of said Company covered by this Agreement for the period of the agreement except as follows:

(a) If the City determines that annexation of all or any part of the properties covered by this Agreement belonging to said Company is reasonably necessary to promote and protect the general health, safety and welfare of persons residing within or adjacent to the City, the City will notify Company in accordance with State law of the proposed annexation. In the event of such annexation, Company will not be required to make further payment under this Agreement for any calendar year commencing after such annexation with respect to the property so annexed, but shall nevertheless be obligated to make full payment for the year during which such annexation becomes effective if the annexation becomes effective after January 1st of said year.

(b) In the event any municipality other than the City attempts to annex separately or in the event the creation of any new municipality shall be attempted so as to include within its limits any land which is the subject matter of this Agreement, City shall, with the approval of Company, seek immediate legal relief against any such attempted annexation or incorporation and shall take such other legal steps as may be necessary or advisable under the circumstances with all cost of such action being borne equally by the City and by the said Company or companies with the Company's portion allocated on the basis of assessed values.

2. The City further agrees that during the term of this agreement, there shall not be extended or enforced as to any land and property of Company within said City of Beaumont Industrial District, any rules, regulations, or any other actions: (a) seeking in any way to control the platting and subdivisions of land, (b) prescribing any buildings, electrical, plumbing or inspection standards or equipment, or (c) attempting to regulate or control in any way the conduct of Company's activities, facilities or personnel thereof.

3. It is understood and agreed that during the term of this agreement or any renewals thereof, the City shall not be required to furnish any municipal services to Company's property located within the City of Beaumont Industrial District; provided, however, City agrees to furnish fire protection to Company should such protection be requested by Company in the event an unusual emergency situation occurs.

ARTICLE IV

TERMINATION OF BREACH

It is agreed by the parties to this Agreement that only full, complete and faithful performance of the terms hereof shall satisfy the rights and obligations assumed by the parties and that, therefore, in addition to any action at law for damages which either party may have, Company shall be entitled to enjoin the enactment or enforcement of any ordinance or charter amendment in violation of, or in conflict with, the terms of this Agreement and shall be entitled to obtain such other equitable relief, including specific performance of the Agreement, as is necessary to enforce its rights. It is further agreed that should this Agreement be breached by Company, the City shall be entitled, in addition to any action at law for damages, to obtain specific performance of this Agreement and such other equitable relief necessary to enforce its rights.

ARTICLE V

TERM OF AGREEMENT

The term of this Agreement shall be for seven (7) years, commencing January 1, 2016, and ending on December 31, 2022.

ARTICLE VI

NOTICES

Any notice provided for in this Contract, or which may otherwise be required by law shall be given in writing to the parties hereto by Certified Mail addressed as follows:

TO CITY

City Manager
City of Beaumont
801 Main
Beaumont, Texas 77704

TO COMPANY

Centana Intrastate Pipeline, L.L.C.
Property Tax Division
5718 Westheimer, Suite 1900
Houston, Texas 77057

ARTICLE VII

CONTINUATION

If this Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not affect the right of City to any payment made or accruing to City hereunder prior to such adjudication, and this provision is intended to be an independent and separable provision not to be affected by such adjudication.

IN WITNESS THEREOF, this Agreement, consisting of 9 pages, is executed in duplicate counterparts as of this _____ day of _____, 2015.

CITY OF BEAUMONT, TEXAS

By: _____
Kyle Hayes
City Manager

ATTEST:

Tina Broussard
City Clerk

CENTANA INTRASTATE PIPELINE L.L.C.

By: _____
Name
Title

ATTEST:

November 17, 2015

Consider a resolution authorizing the City Manager to execute Change Order No. 2 for the Washington Boulevard Pavement and Drainage Improvement Project Phase I (Amarillo to Martin Luther King Parkway)

BEAUMONT

TEXAS

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Dr. Joseph Majdalani, P.E., Public Works Director *JM*

MEETING DATE: November 17, 2015

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to execute Change Order No. 2 in the amount of \$85,093.00 for the Washington Boulevard Pavement and Drainage Improvement Project Phase I (Amarillo to Martin Luther King Parkway).

BACKGROUND

On March 25, 2014, by Resolution No. 14-067, City Council awarded Brystar Contracting, Inc., of Beaumont, Texas the contract for the Washington Boulevard Pavement and Drainage Improvement Project Phase I (Amarillo to Martin Luther King Parkway) in the amount of \$16,478,838.95. This project consists of reconstructing the existing dilapidated asphalt pavement, upgrading its storm sewer system and replacing water and sanitary sewer mains including its appurtenances.

Change Order No. 2 is requested to replace the existing piping system and fittings that connect the elevated water storage tank on Harriot Street to the City water distribution system. Previous Change Order No. 1 approved on March 17, 2015, by Resolution No. 15-051, decreased the original contract amount by (\$99,838.41) making the contract amount \$16,379,000.54. Proposed Change Order No. 2 in the amount of \$85,093.00 would increase the new contract amount to \$16,464,093.54.

FUNDING SOURCE

Beaumont Municipal Airport Oil and Gas Revenues.

RECOMMENDATION

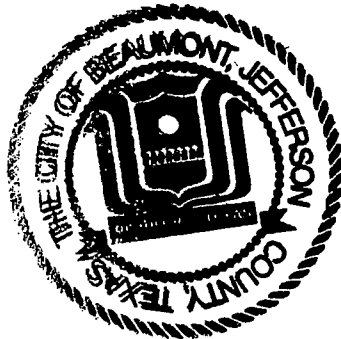
Approval of resolution.

RESOLUTION NO.14-067

BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF BEAUMONT:

THAT the City Council hereby approves the award of a contract to Brystar Contracting, Inc., of Beaumont, Texas, in the amount of \$16,478,838.95 for the Washington Boulevard Pavement and Drainage Improvement Project Phase I (Amarillo to Martin Luther King Parkway).

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 25th day of March, 2014.



A handwritten signature in cursive script, reading "Becky Ames", is written over a horizontal line.

- Mayor Becky
Ames -

RESOLUTION NO.15-051

WHEREAS, on March 25, 2014, the City Council of the City of Beaumont, Texas, passed Resolution No.14-067 awarding a contract in the amount of \$16,478,838.95 to Brystar Contracting, Inc., of Beaumont, Texas, for the Washington Boulevard Pavement and Drainage Improvement Project - Phase 1 (Amarillo to Martin Luther King Parkway); and,

WHEREAS, Change Order No. 1, in the amount of (\$99,838.41), is required for minor design changes to better accommodate field conditions, thereby decreasing the contract amount to \$16,379,000.54;

NOW, THEREFORE, BE IT RESOLVED BY THE

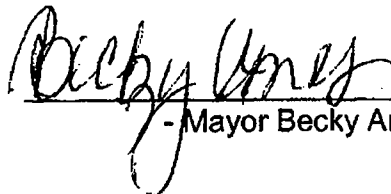
CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to execute Change Order No. 1 for minor design changes to better accommodate field conditions, in the amount of (\$99,838.41), thereby decreasing the contract amount to \$16,379,000.54 for the Washington Boulevard Pavement and Drainage Improvement Project - Phase I (Amarillo to Martin Luther King Parkway).

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.




- Mayor Becky Ames -

CITY OF BEAUMONT

DATE: 05 NOVEMBER 2015
 PROJECT: WASHINGTON BOULEVARD PAVEMENT AND DAINAGE IMPROVEMENT PROJECT PHASE I
 OWNER: CITY OF BEAUMONT
 CONTRACTOR: BRYSTAR CONTRACTING, INC.
 CHANGE ORDER NO.: 02

THE FOLLOWING CHANGES IN THE PLANS AND/OR SPECIFICATIONS ARE HEREBY MADE:


Add/Delete Construction Items and/or quantities to the Contract:

Item No.	Item Code	Description	Unit	Original Quantity	New Quantity	Unit Price	Amount
WATER & SANITARY SEWER UTILITIES							
ADDITION:							
801	37	FURNISH & INSTALL 12" X 6" TEE	EA	-	1.00	\$1,200.00	\$1,200.00
801	38	FURNISH & INSTALL 12" X 8" CROSS	EA	-	1.00	\$1,325.00	\$1,325.00
801	39	FURNISH & INSTALL 2" FULL CIRCLE CLAMP	EA	-	1.00	\$210.00	\$210.00
801	40	FURNISH & INSTALL 6" FULL CIRCLE CLAMP	EA	-	1.00	\$450.00	\$450.00
801	41	FURNISH & INSTALL 12" FULL CIRCLE CLAMP	EA	-	1.00	\$900.00	\$900.00
4020	012	REMOVE OBSTRUCTION IN SAN SWR LINE FOR TV, CLEANING AND PIPE BUSRTING AT DIFFERENT LOCATIONS	EA	-	5.00	\$1,500.00	\$7,500.00
5020	001	SABINE PASS/HARRIOT ST WATER TANK FEEDING & SERVICING WATER SYSTEM INSTALLATION COST OF WORK FOR LABOR & EQUIPMENT	COST PLUS	-	1.00	\$73,508.00	\$73,508.00
CHANGE ORDER TOTAL AMOUNT ADDED							\$85,093.00

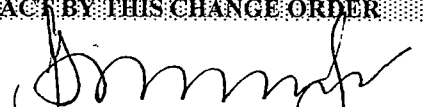
ORIGINAL CONTRACT AMOUNT:	\$16,478,838.95
NET FROM PREVIOUS CHANGE ORDERS :	\$16,379,000.54
TOTAL AMOUNT OF THIS CHANGE ORDER:	\$85,093.00
PERCENT OF THIS CHANGE ORDER:	0.52%
TOTAL PERCENT CHANGE ORDER TO DATE:	-0.02%
NEW CONTRACT AMOUNT:	\$16,464,093.54

NO CALENDAR DAYS HAVE BEEN ADDED IN THE CONTRACT BY THIS CHANGE ORDER

ACCEPTED BY:


 BRYAN PHELPS, BYSTAR
 CONTRACTING, INC.

PREPARED BY:


 RAFAEL G. MIRANDA
 PROJECT MANAGER

APPROVED BY:


 ZHENG TAN, P.E.
 CITY ENGINEER


 AMALIA VILLARREAL, P.E.
 WATER UTILITIES ENGINEER

ATTESTED BY:

DR. JOSEPH MAJDALANI, P.E.
 PUBLIC WORKS DIRECTOR

TINA BROUSSARD, CITY CLERK

KYLE HAYES, CITY MANAGER

RESOLUTION NO.

WHEREAS, on March 25, 2014, the City Council of the City of Beaumont, Texas, passed Resolution No. 14-067 awarding a contract in the amount of \$16,478,838.95 to Brystar Contracting, Inc., of Beaumont, Texas, for the Washington Boulevard Pavement and Drainage Improvement Project – Phase I (Amarillo to Martin Luther King Parkway); and,

WHEREAS, on March 17, 2015, the City Council of the City of Beaumont, Texas, passed Resolution No. 15-051 authorizing Change Order No. 1, in the amount of (\$99,838.41), for minor design changes to better accommodate field conditions, thereby decreasing the contract amount to \$16,379,000.54; and,

WHEREAS, Change Order No. 2, in the amount of \$85,093.00, is required to replace the existing piping system and fittings that connect the elevated water storage tank on Harriot Street to the City water distribution system, thereby increasing the total contract amount to \$16,464,093.54;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to execute Change Order No. 2 for additional work described above, thereby increasing the contract amount by \$85,093.00 for a total contract amount of \$16,464,093.54 for the Washington Boulevard Pavement and Drainage Improvement Project – Phase I (Amarillo to Martin Luther King Parkway).

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of
November, 2015.

- Mayor Becky Ames -

November 17, 2015

Consider a resolution authorizing the City Manager to execute Change Order No. 1, accept maintenance and release final payment to LD Construction for the Delaware Street Asphalt Resurfacing Project – Phase II

BEAUMONT

TEXAS

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Dr. Joseph Majdalani, P.E., Public Works Director *JM*

MEETING DATE: November 17, 2015

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to execute Change Order No. 1, accept maintenance and release final payment in the amount of \$91,163.07 to LD Construction for the Delaware Street Asphalt Resurfacing Project – Phase II.

BACKGROUND

On March 17, 2015, by Resolution No. 15-048, City Council awarded LD Construction of Beaumont, Texas the contract for the Delaware Street Asphalt Resurface Project Phase-II in the amount of \$342,414.02.

Change Order No. 1 in the amount of \$53,172.29 is necessary to adjust the estimated quantities to reflect the actual quantities used in the completion of the project, which increases the final contract amount to \$395,586.31.

The project has been inspected by the Engineering Division and found to be complete in accordance with the provisions and terms set forth in the contract. Acceptance of maintenance, approval of Change Order No. 1, and release of final payment in the amount of \$91,163.07 is recommended.

FUNDING SOURCE

Capital Program.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.15-048

WHEREAS, bids were solicited for a contract for the Delaware Street Asphalt Resurfacing Project - Phase II to include all labor, materials, equipment and supplies to provide an asphalt overlay of Delaware Street from Concord Road to US 69; and,

WHEREAS, LD Construction, of Beaumont, Texas, submitted a bid in the amount of \$342,414.02; and,

WHEREAS, City Council is of the opinion that the bid submitted by LD Construction, of Beaumont, Texas, should be accepted;

NOW, THEREFORE, BE IT RESOLVED BY THE
CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the bid submitted by LD Construction, of Beaumont, Texas, in the amount of \$342,414.02 for a contract for the Delaware Street Asphalt Resurfacing Project - Phase II be accepted by the City of Beaumont; and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute a contract with LD Construction, of Beaumont, Texas, for the purposes described herein.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of March, 2015.




- Mayor Becky Ames -

CITY OF BEAUMONT

DATE: November 17, 2015
PROJECT: DELAWARE STREET ASPHALT RESURFACE PROJECT PHASE-II
OWNER: CITY OF BEAUMONT
CONTRACTOR: LD CONSTRUCTION
CHANGE ORDER NO.: 1

THE FOLLOWING CHANGES IN THE PLANS AND/OR SPECIFICATIONS ARE HEREBY MADE

Adjust the estimated quantities to reflect the actual quantities used in the completion of the project

[illegible]

NO CONTRACT TIME IS ADDED BY THIS CHANGE ORDER

ORIGINAL CONTRACT AMOUNT:	\$342,414.02
NET FROM PREVIOUS CHANGE ORDERS:	\$0.00
TOTAL AMOUNT OF THIS CHANGE ORDER:	\$53,172.29
PERCENT OF THIS CHANGE ORDER:	15.53%
TOTAL PERCENT CHANGE ORDER TO DATE:	15.53%
NEW CONTRACT AMOUNT:	\$395,586.31

ACCEPTED BY:

TROY DODSON, LD CONSTRUCTION

PREPARED BY:

RAFAEL MIRANDA, ROADWAY DESIGNER

APPROVED BY:

ZHENG TAN, P.E., CITY ENGINEER

DR. JOSEPH MAJDALANI, P.E.
PUBLIC WORKS DIRECTOR

APPROVED BY:

KYLE HAYES, CITY MANAGER

ATTESTED BY:

TINA BROUSSARD, CITY CLERK

CITY OF BEAUMONT

CITY OF BEAUMONT
MONTHLY PAYMENT ESTIMATE

PAGE 1 OF 1

PROJECT	DELAWARE STREET ASPHALT RESURFACING PROJECT	NEW CONTRACT AMOUNT	\$342,414.02	PERCENT OF TIME USED	100.00%
CONTRACTOR	LD CONSTRUCTION	CONTRACT DATE	March 17, 2015	PERCENT OF WORK COMPLETE	115.53%
MO ESTIMATE #	Final	CONTRACT CALENDAR DAYS	90		
PERIOD ENDING	October 31, 2015	CALENDAR DAYS USED	90		
CHANGE ORDERS	No. 1				

ITEM NO.	DESC CODE	DESCRIPTION	UNIT MEASURE	EST. QTY.	PREVIOUS ESTIMATE	TO DATE ESTIMATE	TOTAL ESTIMATE TO DATE	UNIT PRICE	TOTAL AMOUNT
DELAWARE STREET ASPHALT RESURFACING PROJECT - PHASE II									
247	2003	FLEXIBLE BASE (DRIVEWAYS)	SY	700.00	0.00	0.00	0.00	\$15.25	\$0.00
276	2001	CEMENT TREATMENT (PLANT-MIXED) (18")	CY	687.24	701.56	249.65	951.21	\$150.00	\$142,681.50
340	2001	1 1/2 INCH TYPE D ASPH. CONC. LEVEL-UP	SY	9311.22	0.00	0.00	0.00	\$8.50	\$0.00
340	2001A	1 1/2 INCH TYPE D ASPH. CONC. LEVEL-UP	CY	951.21	0.00	951.21	951.21	\$103.03	\$98,003.45
340	2002	1 TYPE F ASPH. CONC. SURFACE COURSE	SY	8612.86	8,612.86	10,459.32	19,072.18	\$5.25	\$100,128.95
340	2002	2" TYPE F ASPH. CONC. SURFACE COURSE	SY	4566.61	0.00	0.00	0.00	\$7.90	\$0.00
354	2021	PLANE ASPH. CONC. PAV. (1-INCH TO 3-INCH)	SY	7849.13	8,423.93	0.00	8,423.93	\$1.25	\$10,529.91
361	2001	FULL DEPTH CONC. PAVING REPAIR W/ASB	SY	240.00	143.33	0.00	143.33	\$125.00	\$17,916.25
500	2001	MOBILIZATION	LS	1.00	1.00	0.00	1.00	\$10,000.00	\$10,000.00
502	2001	BARRICADE SIGNS AND TRAFFIC HANDLING	MON	3.00	3.00	0.00	3.00	\$4,000.00	\$12,000.00
712	2001	JOINT SEAL	LF	5122	3,461.00	0.00	3,461.00	\$1.25	\$4,326.25

PREPARED BY:


 RAFAEL MIRANDA, ROADWAY DESIGNER

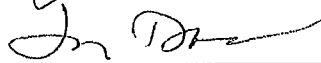
RECOMMENDED BY:


 TAN ZHENG, P.E., CITY ENGINEER

APPROVED BY:


 DR. JOSEPH G. MAJDALANI, P.E., PUBLIC WORKS DIRECTOR

Contractor:



I certify that all work including materials covered by this invoice have been completed or delivered in accordance with Contract documents.

GRAND TOTAL AMOUNT OF WORK DONE : \$395,586.31

LESS 5% RETAINAGE : \$0.00

MATERIAL ON HAND \$0.00

SUB TOTAL : \$395,586.31

LESS PREVIOUS PAY ESTIMATE : (\$304,423.24)

AMOUNT DUE THIS ESTIMATE : \$91,163.07

RESOLUTION NO.

WHEREAS, on March 17, 2015, the City Council of the City of Beaumont, Texas, passed Resolution No. 15-048 awarding a contract in the amount of \$342,414.02 to LD Construction, of Beaumont, Texas, for the Delaware Street Asphalt Resurfacing Project – Phase II; and,

WHEREAS, Change Order No. 1, in the amount of \$53,172.29, is required to adjust the estimated quantities to reflect the actual quantities used in the completion of the project, thereby increasing the total contract amount to \$395,586.31; and,

WHEREAS, the project has been inspected by the Engineering Division and found to be complete in accordance with the provisions and terms set forth in the contract;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to execute Change Order No. 1 adjusting quantities used to complete the project as described above, thereby increasing the contract amount by \$53,172.29 for a revised total contract amount of \$395,586.31; and,

BE IT FURTHER RESOLVED THAT the Delaware Street Asphalt Resurfacing Project – Phase II be and the same is hereby accepted; and,

BE IT ALSO RESOLVED THAT the City Manager is hereby authorized to make final payment in the amount of \$91,163.07 to LD Construction, of Beaumont, Texas.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 17th day of
November, 2015.

- Mayor Becky Ames -

WORK SESSION

- * Review and discuss private warranty programs available for customer water/sewer lines

WORK SESSION

- * Review and discuss options related to the management of the Tennis Center at the Athletic Complex